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The families and friends of inmates who receive and pay for collect calls placed from inmate-only prison telephones deserve to be treated no differently from other consumers who receive collect calls from public payphones. Indeed, because the recipients of collect calls from inmate-only prison telephones have no ability to reduce the costs associated with such calls by arranging for the caller to dial direct, use an access code, or place the call from a different location, they are captive consumers who would likely benefit the most from the Commission's BPP proposal. Accordingly, C.U.R.E. respectfully urges the Commission to adopt a BPP scheme that will accord the recipients of collect calls from inmate-only prison telephones the same benefits as other recipients of 0+ interLATA calls by allowing them to select the long distance carriers of their choice.

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Billed Party Preference
for 0+ InterLATA Calls

CC Docket No. 92-77

To: The Commission

**COMMENTS OF CITIZENS
UNITED FOR REHABILITATION OF ERRANTS**

Citizens United for Rehabilitation of Errants ("C.U.R.E."), by its attorneys, hereby submits these Comments in support of the Commission's proposal to adopt a billed party preference ("BPP") routing methodology for 0+ interLATA operator services. Notice of Proposed Rulemaking, 7 FCC Rcd 3027 (1992) ("NPRM").^{1/} C.U.R.E. is a national non-profit organization dedicated to promoting the reduction of crime and the rehabilitation of offenders through reform of the criminal justice system. Its members include current and former offenders, their families and friends, politicians, religious and community leaders, affiliated non-profit and charitable organizations, and other

^{1/} A petition seeking leave to accept these late-filed Comments is being submitted concurrently herewith. It demonstrates that acceptance of these Comments would serve the public interest, convenience and necessity by allowing the Commission to conduct a more informed analysis concerning the merits of its proposed BPP scheme.

supporters from across the country who have joined together for the purpose of articulating the needs and concerns of those who otherwise would not be heard.

The Commission's proposal to adopt a BPP routing scheme would benefit a substantial segment of C.U.R.E.'s membership by helping to reduce the financial burdens associated with collect calls placed from inmate-only prison telephones. Reducing these costs would, in turn, benefit the public by facilitating family

competition in operator services towards end-users who actually pay the costs associated with collect telephone calls. NPRM, 7 FCC Rcd at 3029 (§13). The Commission explained that most public phones, including "competitively provided payphones, and public phones in hotels, motels and other aggregator locations, are presubscribed to an OSP [operator service provider] chosen by the payphone provider or premises owner." NPRM, 7 FCC Rcd at 3028 (§5). The Commission further noted that "OSPs generally compete for presubscription contracts by offering commissions on 0+ calls made from phones presubscribed to them." Id. at §6. When a telephone line is presubscribed in this manner, all 0+ interLATA calls originating from that line are routed to the preselected carrier. Id. Parties wishing to use an alternative carrier must dial an access code for the preferred carrier. Id. If an access code is not dialed, the call is routed through the presubscribed line and the cost of paying a commission to the premises owner is generally passed on to the recipient of the call in the form of higher operator service charges. NPRM, 7 FCC Rcd at 3030 (§19).

2. In the case of prisons, calls placed by inmates to the outside world generally originate from restricted, inmate-only telephones. Like public phones situated in hotels, motels and other aggregator locations, inmate-only prison telephones are usually presubscribed to an OSP chosen by the premises "owner," the correctional facility, in exchange for commissions based on

the volume of calls originating from such phones. However, unlike phones that are made available to the public at most aggregator locations, inmate-only prison telephones are typically coinless and permit the placing of sent-collect (0+) calls only. Access code dialing from such phones is usually blocked to prevent inmate callers from selecting a carrier other than the one to which the line is presubscribed.^{2/} Thus, in such cases, the caller is never the billed party. Consequently, if a relative or friend of an inmate wishes to communicate with the prisoner by telephone, he or she must agree to accept a collect call from the prisoner and must bear the charges associated with that call. Neither the inmate nor the consumer who pays for the call has any ability to select a carrier other than the one to whom the line is presubscribed. Nor do the parties have any ability to determine whether the call will be made collect or whether it will be placed from a location other than the correctional facility.

3. Thus, the family members and friends who receive collect calls from incarcerated individuals are essentially captive consumers. If those parties wish to remain in telephone contact with a loved one in prison, they have no choice but to

^{2/} Correctional facilities were specifically exempted from the Commission's rules that prohibit the blocking of access code dialing at call aggregator locations. Policies and Rules Concerning Operator Service Providers, 6 FCC Rcd 2744, 2752 (1991).

receive and pay for collect calls that are presubscribed to a provider that deals only with the prison and that has no incentive to afford them better services or lower rates.^{3/} Neither the inmate nor the billed party has any ability to control the costs associated with such calls because they are typically precluded from employing access codes to select an alternative carrier, utilizing direct dial, or electing to place the call from a different, non-presubscribed phone line.^{4/} Consequently, the recipients of collect calls made from inmate-only prison telephones are often forced to pay substantial premiums and incur extraordinary phone bills in order to remain in contact with a loved one in prison.

^{3/} Because the OSP has no incentive to deal with the recipients of inmate telephone calls, their service problems are rarely addressed. In this regard, C.U.R.E has received a variety of complaints from frustrated consumers about service problems such as untimely and confusing bills, fluctuating billing cycles, premature termination of timed telephone calls, lengthy pre-recorded messages inserted during calls for which the consumer is billed, the absence of sound barriers to permit noise-free communications, double-billing for calls placed across time zones, billing for calls delivered by an automated operator to answering machines, call-splashing that results in long distance rates being charged for local calls, and other similar problems that OSP's have failed to correct.

^{4/} C.U.R.E. understands that the Federal system has begun to implement a direct dial system. However, that effort is in its infancy, is moving slowly, and is not expected to be completed for several more years. Consequently, the majority of inmate phones at Federal institutions do not permit direct dial, and nearly all state and local facilities permit sent-collect calls only.

4. C.U.R.E. has received numerous complaints protesting the considerable costs that families and friends of inmates have been compelled to sustain in order to remain in contact with their incarcerated loved ones. In many instances, particularly when the prison is located far away or when one or both of the parties are illiterate, the telephone is the only means of communication available. Yet the financial burdens associated with maintaining such ties can be onerous, particularly when the recipient of the collect call has limited financial resources.^{5/} For example, as members of a support group for the wives, mothers and girlfriends of inmates in Tennessee have written,

"The added burden of dealing with high phone rates can be astronomical. Many of us pay more for phone bill[s] than we do for rent or food. The phone is in many instances the only link between parent and child, or husband and wife... We, the families of inmates realize what a privilege (sic) phone service is from the prisons. With the chance for communication our families have a better chance to remain families. Also, if there is a strong family base, inmates of today are less likely to be the inmates of tomorrow (sic)... We need the emotional support we get and give to and from our loved one[s].

^{5/} Studies have shown that the "families of inmates most often are poor, live in urban areas, and are distant from the facility where the offender is housed." See, e.g., Bonnie E. Carlson and Neil J. Cervera, "Incarceration, Coping and Support," Social Work, Vol. 36, No. 4: July 1991; Eva L. Homer, "Inmate-Family Ties: Desirable But Difficult," Federal Probation, March 1979. Indeed, in many instances incarceration leaves the family without its principal means of financial support, thereby worsening its already marginal financial existence.

Similarly, as an inmate has written,

"It cost[s] \$9.00 to \$10.00 for a half-hour call to my wife in San Jose. I don't call that often because of this, since my wife has had to bear the financial burden of supporting our family which includes three small children."

Likewise, as one outraged father has complained,

"I'm really mad over the phone bills now. My last bill listed all of the calls from my son... on a separate sheet as 'zero plus dialing'.... I received a one minute collect call one day - \$1.96. Two minutes later, I placed a one minute call to the institution and it was only .20 cents. [My son's] calls to me are around \$100 a month, and the same to his wife."

And as another family member has protested,

"As the head of a family with a member incarcerated for over 6 months in a reasonably nearby county facility, I have extensive personal experience [with the high cost of prison telephone calls]. It is a good thing that my pockets are deeper than most: collect long distance telephone calls by the inmate to his home and family have cost \$3,000, and the end is barely in sight. The average cost of each call has been \$8.50, based on a call of about 16 minutes."

Moreover, as reflected in the letter attached hereto as Appendix A, one of C.U.R.E.'s supporters has received letters from families stating:

"When a loved one is incarcerated, we... feel imprisoned too. We are punished as well. The telephone give[s] us more communication but the cost adds up fast."

"Do you know how hard it is for a mother to say 'Daddy can't call because I cannot pay the bill?'"

"The phone is the only way I can communicate with my husband because he cannot read or write. Without the phone, we would be cut off."

"Our phone conversations let me know she is safe. I worry so much about her. I need to hear her voice."

BPP would address these concerns by allowing the recipients of collect calls from inmate-only prison telephones to select a preferred carrier that offers them the best service and lowest rates, thereby encouraging prison OSPs to redirect their competitive efforts towards meeting the needs of these end-users rather than paying high commissions to secure exclusive

offenders, have a tremendous potential for assisting in the reintegration of the offender to community life."^{1/} Indeed, as noted in the letter attached as Appendix A, the National Advisory Commission on Criminal Justice Standards and Goals has stated that:

"Whether an individual is confined across town in a jail or across the state in a prison, confinement totally disrupts his [or her] relationship with his [or her] community. The longer confinement persists, the more alienated the individual becomes. Strained ties with family and friends increase the difficulty of making eventual transition back to the community. The critical value for offenders of a

contributes greatly to the social domestic life of most wives."^{2/} Specifically, Fishman determined that telephone contacts enable husbands and wives to reaffirm and reinforce marital ties, discuss matters concerning child-care and discipline, share information regarding their daily lives, and develop plans for the future.^{10/} Ultimately, Fishman concluded, such contacts "serve a number of valuable functions by helping prisoners maintain contact with the outside world, promoting their participation in household decisions and strengthening marital and family ties," including parental ties that contribute to the positive social, emotional and intellectual development of children.^{11/} Studies also suggest that such contacts help to promote institutional discipline by alleviating tensions and providing an incentive for good behavior among prisoners.

7. Thus, there is strong empirical evidence that telephone communications are an essential means of preserving family and social ties that help to reduce recidivism, preserve

^{2/} Laura T. Fishman, "Prisoners and Their Wives: Marital and Domestic Effects of Telephone Contacts and Home Visits," International Journal of Offender Therapy and Comparative Criminology, Vol. 32, No. 1 (1988).

^{10/} Id. at pgs. 59-60.

^{11/} Id. at pg. 63; see, Homer, supra, at pg. 30 ("It has been known that family disorganization [caused by incarceration of a family member] is a major causative factor in offenses [by children] against the family, e.g., truancy, ungovernability and running away.")


the family unit, encourage prison discipline, and promote society's efforts to rehabilitate offenders. This, in turn, benefits the public by discouraging criminal activity, promoting correctional facility discipline—and reducing the cost to

telephones permit the placing of sent-collect calls only. Access code and direct dialing are automatically blocked. Additionally, most systems are capable of restricting calls by time of day and/or call duration. When the duration of a call is restricted, the system automatically disconnects the call when the allotted time has expired. Moreover, most systems provide for called number restrictions so that prisoners may call only a limited number of pre-designed and pre-approved numbers. Typically, when this restriction is employed, any effort to dial even a single unapproved digit, either before or after the call is connected, results in the call being automatically terminated. Alternatively, many systems have blocking functions that allow prison officials to prevent calls from being made to certain numbers. Inmate-only telephone systems typically offer call recording and eavesdropping functions that permit inmate calls to be monitored, logged and stored for later use. Additionally, most systems offer computerized tracking features that allow officials to analyze and interpret prisoner calling activity and develop complete case files on each inmate. These tracking features generally permit investigators to record the name and location of each number dialed, the date, time and duration of each call, and the identity of the inmate making the call. Unusual or unauthorized

dialing efforts are immediately noted and logged for future reference.^{12/}

9. The screening, blocking, and other specialized security functions described above are generally performed by the OSP on-site at the correctional facility. There is little, if any, connection between the application of these functions and the identity of the carrier that delivers the call. Thus, as correctly noted by MCI Telecommunications Corporation ("MCI") in its Reply Comments filed in this proceeding, "BPP would... not reduce or inhibit existing screening features currently available. Rather, OSPs providing service to correctional facilities will still be able to perform special screening and monitoring and apply restrictions prior to transmitting the call to the public network."^{13/} Indeed, MCI has argued that BPP would actually enhance the ability of correctional institutions to detect and prevent fraud by providing the LEC and IXC with complete visibility of all traffic billed to a single number, as

OSP kickbacks, have asserted generally that BPP would enhance fraud and other criminal activity, there is simply no validity to these hysterical arguments. Although BPP would likely redirect the competitive efforts of OSPs to the consumers who actually pay for inmate-only prison telephone calls, thereby diminishing somewhat the largely unsupervised revenue streams currently enjoyed by correctional facilities, this would have no affect on the ability or incentive of OSPs to implement and effectively utilize the security features described above. The sweeping claims made by correctional facility commentators to the contrary are simply calculated to preserve the lucrative commissions currently generated by OSPs at the expense of innocent consumers who bear the cost of such commissions through higher service charges. Accordingly, the request made by



tensions, and promoting society's efforts to rehabilitate offenders. The families and friends of inmates who actually pay for the collect calls they receive from loved ones in prison deserve to be treated no less favorably than other consumers who receive collect calls from presubscribed public telephones.

0+interLATA calls by allowing them to select the long distance carrier of their choice.

Respectfully submitted,

CITIZENS UNITED FOR REHABILITATION
OF ERRANTS

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APPENDIX A



March 26, 1990

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TO WHOM IT MAY CONCERN:

Please accept this letter as support for CURE's effort to

"Whether an individual is confined across town in a jail or across the state in a prison, confinement totally disrupts his (or Her) relationship with his (or her) community. The longer confinement persists, the more alienated the individual becomes. Strained ties with family and friends increase the difficulty of making the eventual transition back to